

Amendment No. 1 to SB9067

Bowling

Signature of Sponsor

AMEND Senate Bill No. 9067

House Bill No. 9044*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 5, Part 1, is amended by adding the following as a new section:

(a) As used in this section:

(1) "Agency" means a state board, commission, committee, department, officer, or any other unit of state government;

(2) "Medical device" means a face covering, mask, or other protective material or covering designed to be worn over the nose and mouth to reduce the spread of saliva or other fluids when speaking, coughing, sneezing, or during other intentional or involuntary actions to reduce the spread of COVID-19;

(3) "Political subdivision" means a local governmental entity, including, but not limited to, a municipality, metropolitan government, county, utility district, school district, public building authority, or development district created and existing pursuant to the laws of this state, or any instrumentality of government created by any one (1) or more of the named local governmental entities; and

(4) "State-funded organization" means a partnership, corporation, trust or limited liability company, whether organized on a for-profit or not-for-profit basis that received funding from this state, whether through grant or appropriation, in the immediately preceding calendar year in an aggregate amount exceeding one thousand dollars (\$1,000).

(b) The governor, an agency, a political subdivision, or a state-funded organization shall not mandate or coerce through implication or suggestion of employment to an applicant; through advancement or compensation loss to an employee; or otherwise require an employee or require a person as a condition for entry to a premise or to engage in commerce to wear or use a medical device that has not been prescribed for the person or employee by a licensed physician or other healthcare provider.

(c) This section does not apply:

(1) To safety devices, equipment, or specialized clothing required in:

(A) An occupational or employment setting to prevent or reduce the risk of job-related injuries;

(B) An occupational or employment setting to prevent or reduce risks inherent in, or associated with, healthcare institutions or during the delivery or performance of medical services or procedures; or

(C) Institutions providing care for the aged, mentally incompetent, or immunocompromised during the delivery of services or during the performance of required medical or other necessary procedures;

(2) In penal institutions; or

(3) To members of the Tennessee army national guard or Tennessee air national guard operating pursuant to legal orders of the member's chain of command requiring the member to wear or use a medical device.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 50, is amended by adding the following as a new part:

49-50-1801. As used in this part:

(1) "COVID-19" means the novel coronavirus, SARS-CoV-2, and coronavirus disease 2019, commonly referred to as COVID-19, including any mutation of SARS-CoV-2 or COVID-19;

(2) "Health officer" means a county health officer, as described in title 68, chapter 2, part 6; a district health director, as described in § 68-2-704; and any other state, district, municipal, or county health officer; and

(3) "Mask" means a material used to cover the nose and mouth of a person to impede the spread of saliva or other fluids during speaking, coughing, sneezing, or other intentional or involuntary action to prevent or reduce the spread of COVID-19.

49-50-1802.

(a) Notwithstanding chapter 2, part 2 of this title; chapter 13 of this title; an order of a health officer pursuant to title 68; a department of health rule pursuant to § 68-1-103; an order of a mayor pursuant to a private act or local resolution or ordinance; or an executive order issued by the governor pursuant to § 58-2-107, a local board of education or public school shall not mandate or require a student, teacher, or employee to wear a mask.

(b)

(1) A public school shall, to the extent practicable, provide a reasonable accommodation to a student, teacher, or employee of the public school who:

(A) Desires to be placed in an educational setting in which all persons who may come within six feet (6') of another within that educational setting are wearing a mask; and

(B) Provides a written request for a reasonable accommodation to the school principal. The parent or legal guardian of a student under

eighteen (18) years of age seeking a reasonable accommodation under this subsection (b) must provide the written request for the accommodation to the school principal on the student's behalf, unless the student under eighteen (18) years of age is an emancipated minor under title 29, chapter 31.

(2) The school principal shall evaluate the request on behalf of the public school and, to the extent practicable, provide a reasonable accommodation. The principal shall issue a decision approving or denying the request in writing to the person who submitted the request. If the principal denies the request, then the grounds for denial must be provided in the principal's written decision. If the school principal approves the request, then the school may place the student, teacher, or employee in an in-person educational setting in which all persons who may come within six feet (6') of another within that educational setting are wearing a mask provided by the public school that meets the United States national institute for occupational safety and health N95 classification of air filtration, meaning that the face covering filters at least ninety-five percent (95%) of airborne particles, including droplets containing the SARS-CoV-2 virus, or a variant of the SARS-CoV-2 virus.

(3) This section does not prohibit a local board of education or public school from adopting policies necessary to accommodate persons protected under the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.).

(c)

(1) A local board of education or public school shall not use state funds to mandate or require students to wear a mask in violation of subsection (a). If a local board of education or public school violates this subdivision (c)(1), then the commissioner of education may withhold future distributions of public school funds from the LEA or public charter school in the amount of the state funds used

by the local board of education or public charter school in violation of this subdivision (c)(1), or the attorney general and reporter may initiate legal proceedings to recover all state funds used in violation of this subdivision (c)(1).

(2) A local board of education, governing body of a charter school, or public school that violates subdivision (c)(1) is not eligible to receive an appropriation, grant, or other funds from this state until the local board of education, governing body of a charter school, or public school is in compliance.

(3) This subsection (c) does not prohibit a local board of education, governing body of a charter school, or public school from using state funds to purchase a mask that meets the United States national institute for occupational safety and health N95 classification of air filtration, meaning that the face covering filters at least ninety-five percent (95%) of airborne particles, including droplets containing the SARS-CoV-2 virus, or a variant of the SARS-CoV-2 virus, for a student, teacher, or employee who receives a reasonable accommodation pursuant to subsection (b).

SECTION 3. This act is not an appropriation of funds, and funds shall not be obligated or expended pursuant to this act unless the funds are specifically appropriated by the general appropriations act.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it